

m/049/021

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND HINTZE
CHIEF DEPUTY

Protecting Utah • Protecting You

KIRK TORGENSEN
CHIEF DEPUTY

August 17, 2005

Larry Jensen
NELCO
P.O. Box 282
Price, Utah 84501

Stephen Powell
dba Powell Rock
376 Giruard Avenue
Price, Utah 84501

Dan Powell, dba Emery Resources,
148 South 100 East
Spanish Fork, Utah 84660

E. J. Stokes
52 South 350 East
North Salt Lake, Utah 84054

Re: Cherry Hill Park Mine

Dear Gentlemen,

There has been no response to my letter of June 29, 2005. To the knowledge of the Division, there has also been no change in the conditions at the mine site. The Division has determined that it is obligated to take additional action to reclaim all or part of the mine site to bring it into compliance with the requirements of the Utah Mined Land Reclamation Act.

The Board issued its order in May of 2003 requiring that the mine be reclaimed or full bonding provided. There has been a long history of efforts by the Division and others to reclaim and re-open the mine, including the removal and sale of stockpiled material and establishment of the escrow fund pursuant to the Reclamation Agreement. The Reclamation Agreement was terminated and the escrowed funds forfeited due to numerous problems on October 20, 2003.

RECEIVED
AUG 18 2005
DIV. OF OIL, GAS & MINING

Cherry Hill Park Mine

Page 2

August 17, 2005

Although a portion of the mine was reclaimed by Larry Jensen d/b/a NELCO under an agreement with Stephen and/or Dan Powell, there remains over 12 acres of inadequately reclaimed or un-reclaimed land.

The Division has completed its calculation of the current bonding requirements for the entire site. A copy is enclosed. The estimate for reclaiming the entire site is \$35,000. To insure reclamation of the mine the Division currently holds the \$23,000 in escrowed funds and the small mine bond of \$17,000.

The Division had hoped that mining would begin this summer pursuant to the small mine permit issued to Larry Jensen on five of these acres, but apparently the operation is not ready to proceed. The small mine permit fee has been renewed, but the permit remains in an inactive status. Since mining was never begun, the bond posted is subject to withdrawal. Unless the small mine bond is made permanent, and liability for reclamation of the existing disturbance within the small mine permit area is made part of the surety obligation, this bonding does not provide the necessary assurances to the Division. A commitment by the operator or owner regarding the status of the bond would alleviate some of the Division's concerns. If the small mine is activated, or the bond made applicable to the current disturbance within the small mine permit area, then the amount held in escrow could be reduced by about \$5000 and that sum paid to the appropriate persons.

If the small mine permit does not commence mining, or the bond is not made applicable to the current disturbances within the small mine permit area regardless of further mining, then the estimated cost of reclamation is more than the sum currently held in escrow (even discounting the escalation for future years and the 10% contingency the estimated costs are \$25,600 which still exceeds the escrow). In such event, the Division may proceed to file a Request for Agency Action before the Board, asking that the small mine permit be terminated so that the Division can proceed to contract for reclamation of the entire site.

You are hereby given notice that unless additional bonding assurances are provided or reclamation commenced within 60 days that the Division will proceed with advertising and other actions as necessary to contract for reclamation of the Cherry Hill mine site. In the event the costs of reclamation exceed the funds available, the Division will pursue its remedies against the

Cherry Hill Park Mine

Page 3

August 17, 2005

responsible parties including Emery Resources, Dan Powell, Stephen Powell and others who may have had control or ownership of the site and are thereby responsible for the disturbances and for reclamation under Utah law. .

Sincerely,



Steven F. Alder

Assistant Attorney General

cc: Mary Ann Wright
Daron Haddock
Doug Jensen